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# Top Ten Regulatory and Litigation Risks for Private Funds in 2024

**The Capital Commitment** on **March 19, 2024**

To understand the litigation and regulatory risks that are coming in 2024 for private capital, it is helpful to look back briefly on recent events. Arguably, the single most important event over the last 18 months was the rapid increase in interest rates by the central banks in the United States, England, and Europe. From March 2022 to August 2023, the Federal Reserve increased interest rates at the fastest clip in more than 40 years, to break inflation that had reached the highest levels since the 1970s.

These actions had a profound impact on the private capital markets. Activity declined across the entire private capital landscape, with slowing capital formation and investment. The cryptocurrency market collapsed in the second half of 2022. Meanwhile, fundraising slowed dramatically in 2023. IPO activity also slowed to its slowest pace in over four years. M&A activity declined, resulting in fewer lending deals for private credit. Technology-focused funds and their portfolio companies, in particular, faced significant challenges, as operating costs increased, the cost of capital increased, and multiples declined. Meanwhile, default rates on loans started to increase, with fewer options for refinancings, as interest rates increased and business fundamentals weakened. In short, the entire private capital market was adjusting to the volatile shift from a low interest rate, high growth environment to a high interest rate, slower growth environment.

At the same time, there were positive signs in the broader economy, especially more recently, including strong employment indicators and declining inflation. The public release of ChatGPT4 in late 2022 fueled intense interest in AI, leading to a new technology investment cycle reminiscent of the early days of the internet following the release of Netscape Navigator in 1994.  In addition, the stock market boomed – not only as a result of exuberance over AI, but also with the prospect of a soft-landing and interest rate cuts in 2024.

Higher interest rates and operating costs will put stress on certain portfolio companies, with controversies over layoffs and liquidations, putting pressure on boards and sponsor appointed directors (see our Portfolio Company Playbook). That said, there is a lot of dry powder to make new investments and geopolitical events have driven interest in defense tech and related sectors.

Alongside the macro-economic factors, asset managers must grapple with an ever-evolving regulatory landscape as new regulations over past years, and in development, will lead to increased enforcement activity.

With this backdrop, we are pleased to present the Top Ten Regulatory and Litigation Risks for Private Funds in 2024.

1. Examining the SEC's Slew of Recent Rules and Amendments
2. Ongoing Capital Challenges Portend Continued Portfolio Company Litigation Risk in 2024
3. ESG In 2024: Traps for The Unwary
4. A Tale of Two Regulators: The SEC and FCA Address AI Regulation for Private Funds
5. SEC Focus on Adviser-Led Secondaries Continues
6. Not Off the Hook: The SEC Addresses its Position on Exculpation And Indemnification For Private Fund Advisers
7. Cybersecurity Continues to be a Focal Point for Regulators in 2024
8. Is Artificial Intelligence Inflating a Valuation Bubble
9. The Macro-Economic Environment: What It Means for VC Firms
10. How Governmental Carrots and Sticks Impact Private Investment in Defense Tech and the Security Ecosystem

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